

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

BRENDA KAY CAUDILL,

Plaintiff,

v.

**Case No.: 2:16-cv-818
JUDGE GEORGE C. SMITH
Magistrate Judge Vascura**

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

ORDER

This case is before the Court to consider the *Report and Recommendation* issued by the Magistrate Judge on August 21, 2017. The Magistrate Judge recommended that Plaintiff's State of Errors be overruled and the decision of the Commissioner of Social Security be affirmed. (*See Report and Recommendation*, Doc. 22). This matter is now before the Court on Plaintiff's Objections to the Magistrate Judge's *Report and Recommendation*. (Doc. 26). The Court will consider the matter *de novo*. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

Plaintiff "objects to the Magistrate Judge's finding that the Commissioner's burden of proof was carried in this case by the ALJ's reliance on VE testimony even though the VE's testimony lacked clarity and the ALJ made no specific findings regarding the degree of transferability of Caudill's skills in light of her age, which was categorized as 'advanced age' by the Commissioner's regulations." (Doc. 26, Pl.'s Obj. at 1–2).

Plaintiff argues that the Magistrate Judge failed to recognize that the Commissioner had the burden of proof at step five and that the ALJ erred in failing to make a finding that the

sedentary jobs that were cited (e.g. medical voucher clerk, hospital admit clerk, and claims examiner) were “so similar to your previous work that you would need to make very little, if any, vocational adjustment in terms of tools, work processes, work settings, or the industry.” § 404.1568(d)(4). Plaintiff further argues that the Magistrate Judge incorrectly interpreted her argument stating “[t]he Magistrate Judge interpreted Caudill’s argument as a substantial evidence argument However, Caudill’s argument is the ALJ committed a legal error in failing to elicit testimony from the VE to support his position that the jobs cited required very little, if any, vocational adjustment in terms of tools, work processes, work settings, or the industry.” (Doc. 26, Pl.’s Obj. at 2–3).

However, the Magistrate Judge specifically considered this issue, stating “Plaintiff asserts that the ALJ failed to sufficiently inquire into and determine the degree of vocational adjustment required in the sedentary jobs the VE identified.” (Doc. 22, *Report and Recommendation* at 13). And again the Magistrate Judge noted that “because of Plaintiff’s age and the sedentary RFC he assessed, the ALJ was required to determine whether Plaintiff maintained transferable skills to sedentary work with very little vocation adjustment.” (*Id.* at 15). The Court ultimately agrees with the reasoning of the Magistrate Judge, although the ALJ did not actually use the phrase “vocational adjustment,” the testimony of the VE addressed Plaintiff’s transferable skills and the potential sedentary jobs that were similar to her previous work.

Therefore, for the reasons stated in the well-reasoned *Report and Recommendation*, this Court finds that Plaintiff’s objection is without merit. Based on the aforementioned and the detailed *Report and Recommendation*, the Court finds that Plaintiff’s objection has been

thoroughly considered and is hereby **OVERRULED**. Accordingly, the *Report and Recommendation*, Document 22, is **ADOPTED** and **AFFIRMED**. Plaintiff's Statement of Errors is hereby **OVERRULED**, and the decision of the Commissioner of Social Security is **AFFIRMED**.

The Clerk shall remove Documents 22 and 26 from the Court's pending motions list, and enter final judgment in favor of Defendant, the Commissioner of Social Security.

IT IS SO ORDERED.

/s/ George C. Smith
GEORGE C. SMITH, JUDGE
UNITED STATES DISTRICT COURT